

PENNY THEW FCIArb GAICD
BARRISTER

Called to the Bar in 2005, Penny is highly regarded for her expertise in all aspects of employment and discrimination law, contractual disputes and restraints of trade. With over 25 years' experience in advocacy, advising and dispute resolution, Legal 500 and Doyle's Guide rank Penny as a leading barrister in her areas of expertise.

Penny appears in all courts and is entered on the High Court of Australia Register of Practitioners. She is appointed as a sessional Senior Member of the Administrative Review Tribunal and a sessional Appeal Panel and Tribunal Member of the Actuaries Institute of Australia Disciplinary Scheme. Between 2017 and early 2026, she was appointed a sessional Tribunal Member of the NSW Civil and Administrative Tribunal. Penny is a Fellow of the Chartered Institute of Arbitrators (FCIArb) and is a Graduate Member of the Australian Institute of Company Directors (GAICD).

Penny is an executive member of the Australian Labour Law Association and the Women Lawyers Association of NSW, as well as a member of the Bar Association's Industrial, Employment, Health and Safety Committee and Alternative Dispute Resolution Committee.

Prior to being called to the Bar, Penny practised as a solicitor primarily in the area of employment law, before which she was a policy adviser with (what is now) the Australian Human Rights Commission. She has tutored in Civil Practice for the Law Faculty of the University of Technology, Sydney, performed an internship with the International Labour Organisation in Geneva, Switzerland and was retained as the employment law legal adviser to the NSW Bar Association. In 2015, Penny drafted the Bar Association's inaugural Model Best Practice Guidelines on the prevention of bullying, harassment and discrimination.

Penny is regularly called upon to deliver seminars and papers on employment and discrimination law compliance issues, including for the NSW Bar Association and the Law Society of NSW, and has co-authored submissions for the Bar Association and the Law Council of Australia. In 2023, 2024 and again in 2025 Penny was awarded [Commercial Barrister of the Year](#).

Penny holds a Bachelor of Laws and Bachelor of Arts from the University of New South Wales, a Masters of Labour Law and Relations from the University of Sydney and a Diploma of International Commercial Arbitration from the Chartered Institute of Arbitrators convened at the University of Oxford, Worcester College. In 2008, Penny completed the Advanced Advocacy Course at the University of Oxford, Keble College.

ADMISSIONS TO PRACTICE

- 2005 Admitted to the Bar of New South Wales
- 2000 Admitted as a Solicitor of the Supreme Court of New South Wales

PROFESSIONAL QUALIFICATIONS

- 2025 Diploma in International Commercial Arbitration (Oxford): Chartered Institute of Arbitrators (via University of Oxford, Worcester College)
- 2024 Directors' Course: Australian Institute of Company Directors (GAICD)

- 2021 International Arbitration: Chartered Institute of Arbitrators
- 2008 Advanced Advocacy Course: University of Oxford, Keble College
- 2003 Masters of Labour Law and Relations: University of Sydney
- 1999 Bachelor of Laws: University of New South Wales
- 1999 Bachelor of Arts: University of New South Wales

ACCOLADES

- 2025-2026: *Legal 500* – Leading in Commercial Disputes; Asia Pacific rankings for the Australian Bar
- 2019 – 2026: *Doyle's Guide* – Recommended in Leading Employment Law Junior Counsel
- 2023 - 2025: *CorporateLivewire Global Awards* – Commercial Barrister of the Year, winner

PRINCIPAL AREAS OF PRACTICE

- Employment law
- Discrimination and human rights law
- Appellate law
- Commercial law
- Migration Law

PROFESSIONAL APPOINTMENTS

- 2025 – present: Senior Member (sessional), Administrative Review Tribunal
- 2025 – present: Appeal Panel and Tribunal Member (sessional), Actuaries Institute of Australia (Disciplinary Scheme)
- 2025 – present: Fellow of CI Arb (FCI Arb)
- 2023 – 2025: Member of CI Arb (MCI Arb)
- 2024 – present: Graduate Member of the Australian Institute of Company Directors (GAICD)
- 2022 – present: Committee member, NSW Bar Association Industrial, Employment, Health & Safety Committee
- 2025 – present: Committee member, NSW Bar Association Alternative Dispute Resolution Committee.
- 2018 – 2025: Committee member, Bar News (news journal of the NSW Bar)
- 2017 – early 2026: Tribunal Member (sessional), NSW Civil and Administrative Tribunal
- 2013 – 2018: Committee member, NSW Bar Association Diversity and Equality Committee

PROFESSIONAL MEMBERSHIPS

- NSW Bar Association
 - Chartered Institute of Arbitrators (FCI Arb)
 - Australian Institute of Company Directors (GAICD)
 - Australian Labour Law Association (executive member)
 - Women Lawyers Association of NSW (executive member)
 - Council of Australasian Tribunals
 - Australian Institute of Administrative Law
 - Law Council of Australia, Federal Dispute Resolution Section, International Law Section and Business Law Section
 - Industrial Relations Society of NSW
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SELECT MATTERS

- [Primerano v Schisan Investments Pty Ltd](#) [2025] FCA 15 (appeal); [Primerano v Schisan Investments Pty Limited](#) [2023] FedCFamC2G 667 – underpayment claim; claim that applicant was ‘national system employee’ under *Fair Work Act 2009* (Cth).
- [Karen Tan v Wingecarribee Shire Council and Others](#) [2025] FWCFB 88 appeal from general protections decision under *Fair Work Act 2009* (Cth).
- [Waknin v Servcorp Administration Pty Ltd](#) [2023] FedCFam C2G 634 – breach of general protections claim under *Fair Work Act 2009* (Cth).
- [Trindall v NSW Aboriginal Education Consultative Group Inc](#) [2023] NSWSC 85 – urgent orders restraining Board meeting.
- [PIA Mortgage Services Pty Ltd v King](#) [2020] FCAFC 15; (2020) 274 FCR 225; (2020) 292 IR 317 – appeals under general protections provisions of *Fair Work Act 2009* (Cth).
- [Clarke v Nursing and Midwifery Council of New South Wales & Ors \(No.4\)](#) [2019] FCCA 3639; [Clarke v Nursing and Midwifery Council of New South Wales & Ors \(No.3\)](#) [2019] FCCA 3159; [Clarke v Nursing and Midwifery Council of New South Wales & Ors \(No.2\)](#) [2019] FCCA 3035 – dismissal of various breach of duty and consumer law applications; costs.
- [El Ali v Royal & Ors; Zreika v Royal & Ors](#) [2019] HCATrans 227 – costs indemnity principle (led by Dr Birch SC); [Zreika v Royal](#) [2019] FCAF 82; (2019) 271 FCR 65 – disposition of shares and assets (led by Dr Birch SC); [Zreika v Royal \(No 2\)](#) [2019] FCAFC 237; (2019) 141 ACSR 261 – costs and consequential orders (led by Dr Birch SC); [Royal v Nazloomian, in the matter of Royal](#) [2019] FCA 555 – bankruptcy notice set aside.
- [King v PIA Mortgage Services Pty Ltd & Ors \(No.2\)](#) [2019] FCCA 1460 - penalties under *Fair Work Act 2009* (Cth); [King v PIA Mortgage Services Pty Ltd & Ors](#) [2018] FCCA 3426 - breach of general protections claim under *Fair Work Act 2009* (Cth) and *Australian Consumer Law* claim (led by Taylor SC).
- [Johnston v Ainslie Football Club Limited \(Discrimination\)](#) [2018] ACAT 104 – disability discrimination; ‘gambling behaviours’ alleged as a disability.
- [Hinder v The Salvation Army \(NSW\) Property Trust \(No 3\)](#) [2017] NSWCATAD 16 – disability discrimination; ‘gambling addiction’ alleged as a disability.
- [Royal v El Ali](#) [2016] FCA 782; [Royal v El Ali \(No 2\)](#) [2016] FCA 1156; [Royal v El Ali \(No 3\)](#) [2016] FCA 1573; [Royal v El Ali \(No 4\)](#) [2017] FCA 299 – dispositions of shares and assets rendered void, consequential costs orders (led by Dr Birch SC); [Royal v El Ali; In the Matter of the Bankrupt Estate of El Ali](#) [2014] FCA 834; [Royal v El Ali; In the Matter of the Bankrupt Estate of El Ali](#) [2013] FCA 923; [Royal v El Ali](#) [2011] NSWSC 602 – freezing orders and debt recovery (led by Dr Birch SC).
- [McDonald v Parnell Laboratories \(Aust\) Pty Ltd](#) (2007) 168 IR 375 – breach of *Sex Discrimination Act 1984* (Cth) and section 659(2)(f) of *Workplace Relations Act 1996* (Cth); breach of contract; [McDonald v Parnell Laboratories \(Aust\) \(No 2\)](#) (2007) 164 FCR 591; 175 IR 251 – costs.

PUBLICATIONS

- Thew, “Constitutional validity of statutory non-disclosure obligations: *MJZP v Director-General of Security* [2025] HCA 26” [2025] (Summer edition) NSWBarAssocNews 111.

- Thew, “A departure for Australia from solidary liability in commercial arbitrations” [2024] (Summer edition) NSWBarAssocNews 111.
- Thew, “When future or contingent workplace rights can be protected under the *Fair Work Act 2009* (Cth)” [2023] (Summer edition) NSWBarAssocNews 28.
- Thew, with Hodgkinson AM SC, Shariff SC and Baroni, “New prohibition against hostile workplace environments and a positive duty” [2023] (Autumn edition) NSWBarAssocNews 64.
- Thew, “Addressing inequality: The impetus behind the Sex Discrimination and Fair Work (Respect at Work) Amendment Act 2021 (Cth)” Volume 64, Issue 3 of Journal of Industrial Relations.
- Hogan-Doran SC and Thew, “New accessorial liability for barristers under the Sex Discrimination Act 1984 (Cth) and fresh obligations under Bar Rule 123” [2022] (winter edition) NSWBarAssocNews 62.
- Thew, “New accessorial liability for solicitors under the Sex Discrimination Act and fresh obligations under Conduct Rule 42” Law Society Journal, 6 May 2022.
- Birch SC, Thew and France, “Alienations of property with intent to defraud” [2020] LSJ (Issue 63) 88.
- Cosaro SC and Thew, “Obtaining leave to appear – NSW Civil and Administrative Tribunal” [2019] Bar News (Winter) 71.
- Thew and Tronson, “What is the economic cost of discrimination?” [2019] (Autumn) Bar News 67.
- Thew and Taylor SC, “The Pursuit of Excellence: The Bar Association’s Best Practice Guidelines” [2016] (Spring) Bar News 51.